
HOUSE BILL No. 1179

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-23-2-2; IC 36-10-12.

Synopsis: Cultural and performing arts development districts. Authorizes cities and counties that have a redevelopment commission to apply to the department of commerce and the arts commission for designation of a cultural and performing arts development district. Establishes procedures for the allocation of incremental property tax, sales tax, and income tax revenue to the redevelopment commission for use within the district.

Effective: July 1, 2004.

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January 13, 2004, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1179

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-23-2-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2004]: Sec. 2. The commission ~~shall have~~ **has**
3 the following purposes and duties:

4 ~~(a)~~ **(1)** To stimulate and encourage throughout the state the study
5 and presentation of the performing and fine arts and public
6 interest and participation therein.

7 ~~(b)~~ **(2)** To make such surveys as may be deemed advisable of
8 public and private institutions engaged within the state in artistic
9 and cultural activities, including but not limited to, music, theatre,
10 dance, painting, sculpture, architecture, and allied arts and crafts,
11 and to make recommendations, concerning appropriate methods
12 to encourage participation in and appreciation of the arts to meet
13 the legitimate needs and aspirations of persons in all parts of the
14 state.

15 ~~(c)~~ **(3)** To take such steps as may be necessary and appropriate to
16 encourage public interest in the cultural heritage of our state and
17 to expand the state's cultural resources. ~~and~~

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~~(d)~~ (4) To encourage and assist freedom of artistic expression essential for the well-being of the arts.

(5) To recommend to the department of commerce the approval or rejection of applications for the designation of cultural and performing arts development districts under IC 36-10-12.

SECTION 2. IC 36-10-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 12. Cultural and Performing Arts Development Districts

Sec. 1. This chapter applies to all units having a department of redevelopment under IC 36-7-14 or a department of metropolitan development as the redevelopment commission of a consolidated city under IC 36-7-15.1.

Sec. 2. The definitions in IC 36-7-14 and IC 36-7-15.1 apply throughout this chapter.

Sec. 3. As used in this chapter, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessment date.**
- (2) Assessed value or assessed valuation.**
- (3) Taxing district.**
- (4) Taxing unit.**

Sec. 4. As used in this chapter, "base assessed value" means:

- (1) the net assessed value of all the taxable property located in a district as finally determined for the assessment date immediately preceding the effective date of the allocation provision of a resolution adopted under section 14 of this chapter; plus**
- (2) to the extent it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.**

Sec. 5. As used in this chapter, "cultural and performing arts" includes literature, theater, music, dance, ballet, painting, sculpture, photography, motion pictures, architecture, archeology, history, natural history, and the natural sciences.

Sec. 6. As used in this chapter, "district" refers to a cultural and performing arts development district designated under this chapter.

Sec. 7. As used in this chapter, "gross retail base period

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amount" means the total amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a district during the full state fiscal year that precedes the date on which the district was designated under section 11 of this chapter.

Sec. 8. As used in this chapter, "income tax base period amount" means the total amount of the following taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district for the state fiscal year that precedes the date on which the district was designated under section 11 of this chapter:

- (1) The adjusted gross income tax.
- (2) The county adjusted gross income tax.
- (3) The county option income tax.
- (4) The county economic development income tax.

Sec. 9. (a) The legislative body of a unit may, by ordinance or resolution, authorize the unit's redevelopment commission to apply to the department of commerce for designation of all or part of the territory within the jurisdiction of the redevelopment commission as a cultural and performing arts development district and to enter into an agreement governing the terms and conditions of the designation. The application must be in a form specified by the department and must include the following:

- (1) A development proposal for the area for which the designation of a district is being requested.
- (2) Evidence of previous, concurrent, or proposed economic development initiatives that would supplement or be enhanced by the designation of a district.
- (3) Any other information the department determines necessary to make the determinations required under this chapter.

(b) A unit that submits an application under subsection (a) must also provide a copy of that application to:

- (1) the Indiana arts commission; and
- (2) the budget committee for review and recommendation to the budget agency.

(c) When considering an application for designation of a district, the budget committee and the budget agency must make the following findings:

- (1) The area to be designated as a district meets the conditions necessary for designation as a district.
- (2) The designation of the district will benefit the people of

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Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(d) The income tax incremental amount and the gross retail incremental amount may not be allocated to a district until the budget agency approves the application.

Sec. 10. The department of commerce shall adopt rules under IC 4-22-2 to establish criteria for the designation of districts. The rules adopted under this section must include the following criteria:

(1) The consistency of the proposed district with any existing overall economic development strategy for the unit submitting the application.

(2) The identification of local residents' need and support for institutions that would be created or supported by the designation of a district.

(3) The economic viability of the community within the district.

(4) The feasibility that designation of a district will catalyze further economic development in the unit seeking district designation.

(5) The sustainability of all projects receiving benefits following their completion.

(6) A long term plan for any infrastructure development.

(7) A contingency plan for the infrastructure created and supported as a result of benefits received through district designation if the project is not successful.

(8) The overall cost to the state as compared with the anticipated economic benefit to the unit seeking designation of a district.

(9) Evidence that a public benefit will result from designation of the district, such as free public workshops on art and culture, interaction with elementary and secondary education institutions for the enhancement or inclusion of arts and culturally related curricula, development of public art, or other free performances or exhibitions that will serve to educate the general public with regard to art and culture and stimulate the public interest in similar pursuits.

(10) Other criteria that the department considers appropriate, as determined in consultation with the Indiana arts commission.

Sec. 11. After consideration of the criteria adopted under section 10 of this chapter, the department of commerce may

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1 approve or reject an application for designation of a district.
 2 However, the department may not approve an application if the
 3 Indiana arts commission and the budget agency have not
 4 recommended approval of the application.

5 Sec. 12. A redevelopment commission and the legislative body
 6 of the unit that establishes the redevelopment commission may
 7 enter into an agreement with the department of commerce
 8 establishing the terms and conditions governing a district
 9 designated under section 11 of this chapter. The agreement must
 10 include the following provisions:

11 (1) A description of the area to be included within the district.

12 (2) Covenants and restrictions, if any, upon all or a part of the
 13 properties contained within the district and terms of
 14 enforcement of any covenants or restrictions.

15 (3) The financial commitments of any party to the agreement
 16 and of any owner or developer of property within the district.

17 (4) The terms of any commitment required from a public or
 18 private institution for support of the operations and activities
 19 within the district.

20 (5) The terms of enforcement of the agreement, which may
 21 include the definition of events of default, cure periods, legal
 22 and equitable remedies and rights, and penalties and
 23 damages, actual or liquidated, upon the occurrence of an
 24 event of default.

25 (6) The public facilities to be developed for the district and the
 26 costs of those public facilities, as approved by the department
 27 of commerce.

28 Sec. 13. (a) If the department of commerce determines that a
 29 sale price or rental value at below market rate will assist in
 30 increasing employment or private investment in a district, the
 31 redevelopment commission and the legislative body of the unit may
 32 determine the sale price or rental value for public facilities owned
 33 or developed by the redevelopment commission and the unit in the
 34 district at below market rate.

35 (b) If public facilities developed under an agreement entered
 36 into under this chapter are conveyed or leased at less than fair
 37 market value or at below market rates, the terms of the conveyance
 38 or lease must include legal and equitable remedies and rights to
 39 assure that the public facilities are used for cultural or performing
 40 arts purposes. Legal and equitable remedies and rights may
 41 include penalties and actual or liquidated damages.

42 Sec. 14. (a) Subject to the approval of the legislative body of the

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unit that establishes the redevelopment commission, the redevelopment commission may adopt a resolution designating a district as an allocation area for purposes of the allocation and distribution of property taxes.

(b) After adoption of the resolution under subsection (a), the redevelopment commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit that has authority to levy property taxes in the geographic area where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of real property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district and must state that written remonstrances may be filed with the redevelopment commission until the time designated for the hearing. The notice must also name the place, date, and time when the redevelopment commission will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed allocation area and will determine the public utility and benefit of the proposed allocation area. The commission shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. All persons affected in any manner by the hearing, including all taxpayers within the taxing district of the redevelopment commission, are considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the redevelopment commission affecting the allocation area if the redevelopment commission gives the notice required by this section.

(c) At the hearing, which may be recessed and reconvened periodically, the redevelopment commission shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After

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1 considering the evidence presented, the redevelopment commission
 2 shall take final action determining the public utility and benefit of
 3 the proposed allocation area confirming, modifying and
 4 confirming, or rescinding the resolution. The final action taken by
 5 the redevelopment commission shall be recorded and is final and
 6 conclusive, except that an appeal may be taken in the manner
 7 prescribed by section 15 of this chapter.

8 **Sec. 15. (a)** A person who files a written remonstrance with the
 9 redevelopment commission under section 14 of this chapter and
 10 who is aggrieved by the final action taken may, within ten (10) days
 11 after that final action, file with the office of the clerk of the circuit
 12 or superior court of the county a copy of the redevelopment
 13 commission's resolution and the person's remonstrance against the
 14 resolution, together with the person's bond as provided by
 15 IC 34-13-5-7.

16 **(b)** An appeal under this section shall be promptly heard by the
 17 court without a jury. All remonstrances upon which an appeal has
 18 been taken shall be consolidated and heard and determined within
 19 thirty (30) days after the time of filing of the appeal. The court
 20 shall decide the appeal based on the record and evidence before the
 21 redevelopment commission, not by trial de novo, and may confirm
 22 the final action of the redevelopment commission or sustain the
 23 remonstrances. The judgment of the court is final and conclusive,
 24 unless an appeal is taken as in other civil actions.

25 **Sec. 16. (a)** An allocation provision adopted under section 14 of
 26 this chapter must:

- 27 (1) apply to the entire district; and
- 28 (2) require that any property tax on taxable property
- 29 subsequently levied by or for the benefit of any public body
- 30 entitled to a distribution of property taxes in the district be
- 31 allocated and distributed as provided in subsections (b) and
- 32 (c).

33 **(b)** Except as otherwise provided in this section, the proceeds of
 34 the taxes attributable to the lesser of:

- 35 (1) the assessed value of the taxable property for the
- 36 assessment date with respect to which the allocation and
- 37 distribution is made; or
- 38 (2) the base assessed value;

39 shall be allocated and, when collected, paid into the funds of the
 40 respective taxing units.

41 **(c)** Except as provided in subsection (d), all the property tax
 42 proceeds that exceed those described in subsection (b) shall be

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1 allocated to the redevelopment commission for the district and,
 2 when collected, paid into the cultural and performing arts
 3 development fund established under section 22 of this chapter.

4 (d) Before July 15 of each year, the redevelopment commission
 5 shall do the following:

6 (1) Determine the amount, if any, by which the property tax
 7 proceeds to be deposited in the cultural and performing arts
 8 development fund will exceed the amount necessary for the
 9 purposes described in section 22 of this chapter.

10 (2) Notify the county auditor of the amount, if any, of excess
 11 tax proceeds that the redevelopment commission has
 12 determined may be allocated to the respective taxing units in
 13 the manner prescribed in subsection (c). The redevelopment
 14 commission may not authorize an allocation of property tax
 15 proceeds under this subdivision if to do so would endanger the
 16 interests of the holders of bonds described in section 23 of this
 17 chapter.

18 (e) Notwithstanding any other law, each assessor shall, upon
 19 petition of the redevelopment commission, reassess the taxable
 20 property situated upon or in, or added to, the district effective on
 21 the next assessment date after the petition.

22 (f) Notwithstanding any other law, the assessed value of all
 23 taxable property in the district, for purposes of tax limitation,
 24 property tax replacement, and formulation of the budget, tax rate,
 25 and tax levy for each political subdivision in which the property is
 26 located is the lesser of:

- 27 (1) the assessed value of the taxable property as valued
 28 without regard to this section; or
 29 (2) the base assessed value.

30 Sec. 17. (a) A redevelopment commission may, by resolution,
 31 provide that each taxpayer in a cultural and performing arts
 32 development district that has been designated as an allocation area
 33 is entitled to an additional credit for taxes (as defined in
 34 IC 6-1.1-21-2) that, under IC 6-1.1-22-9, are due and payable in
 35 May and November of that year. One-half (1/2) of the credit shall
 36 be applied to each installment of property taxes. This credit equals
 37 the amount determined under the following STEPS for each
 38 taxpayer in a taxing district that contains all or part of the cultural
 39 and performing arts development district:

40 STEP ONE: Determine the part of the sum of the amounts
 41 under IC 6-1.1-21-2(g)(1)(A) and IC 6-1.1-21-2(g)(2) through
 42 IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.

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STEP TWO: Divide:

(A) the part of the county's total eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; by

(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that would have been allocated to the cultural and performing arts development fund under section 16 of this chapter had the additional credit described in this section not been given.

The additional credit reduces the amount of proceeds allocated and paid into the cultural and performing arts development fund under section 16 of this chapter.

(b) The additional credit under subsection (a) shall be:

(1) computed on an aggregate basis of all taxpayers in a taxing district that contains all or part of a cultural and performing arts development district; and

(2) combined on the tax statement sent to each taxpayer.

(c) Concurrently with the mailing or other delivery of the tax statement or any corrected tax statement to each taxpayer, as required by IC 6-1.1-22-8(a), each county treasurer shall for each tax statement also deliver to each taxpayer in a cultural and performing arts development district who is entitled to the additional credit under subsection (a) a notice of additional credit. The actual dollar amount of the credit, the taxpayer's name and address, and the tax statement to which the credit applies must be stated on the notice.

(d) Notwithstanding any other law, a taxpayer in a cultural and performing arts development district is not entitled to a credit for property tax replacement under IC 6-1.1-21-5.

Sec. 18. (a) The state board of accounts and department of local government finance shall adopt the rules and prescribe the forms and procedures that the state board of accounts and department of local government finance consider appropriate for the implementation of an allocation area under this chapter.

(b) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the cultural

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1 and performing arts development fund under section 16 of this
2 chapter.

3 **Sec. 19. (a)** After entering into an agreement under section 12 of
4 this chapter, the redevelopment commission shall send to the
5 department of state revenue:

6 (1) a certified copy of the designation of the district under
7 section 11 of this chapter;

8 (2) a certified copy of the agreement entered into under
9 section 12 of this chapter; and

10 (3) a complete list of the residents and employers in the
11 district and the street names and the range of street numbers
12 of each street in the district.

13 The redevelopment commission shall update the list provided
14 under subdivision (3) before July 1 of each year.

15 (b) Not later than sixty (60) days after receiving a copy of the
16 designation of the district, the department of state revenue shall
17 determine the gross retail base period amount and the income tax
18 base period amount.

19 **Sec. 20.** Before the first business day in October of each year,
20 the department of state revenue shall calculate the income tax
21 incremental amount and the gross retail incremental amount for
22 the preceding state fiscal year for each district designated under
23 this chapter.

24 **Sec. 21. (a)** The treasurer of state shall establish an incremental
25 tax financing fund for each district designated under this chapter.
26 The fund shall be administered by the treasurer of state. Money in
27 the fund does not revert to the state general fund at the end of a
28 state fiscal year.

29 (b) Subject to subsection (c), the following amounts shall be
30 deposited during each state fiscal year in the incremental tax
31 financing fund established for a district under subsection (a):

32 (1) The total amount of state gross retail and use taxes that
33 are remitted under IC 6-2.5 by businesses operating in the
34 district, until the amount of state gross retail and use taxes
35 deposited equals the gross retail incremental amount for the
36 district.

37 (2) The total amount of the following taxes paid with respect
38 to wages earned for work in the district, until the amount
39 deposited equals the income tax incremental amount:

40 (A) The adjusted gross income tax.

41 (B) The county adjusted gross income tax.

42 (C) The county option income tax.

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(D) The county economic development income tax.

(c) Not more than a total of five million dollars (\$5,000,000) may be deposited in a particular incremental tax financing fund for a district over the life of the district.

(d) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a district shall be distributed to the redevelopment commission for deposit in the cultural and performing arts development fund established under section 22 of this chapter.

Sec. 22. (a) Each redevelopment commission that establishes a district under this chapter shall establish a cultural and performing arts development fund to receive:

(1) property tax proceeds allocated under section 16 of this chapter; and

(2) money distributed to the redevelopment commission under section 21 of this chapter.

(b) Money deposited in the cultural and performing arts development fund may be used by the redevelopment commission only for one (1) or more of the following purposes:

(1) Acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, equipping, and operation of public facilities that are related to the cultural and performing arts and that are in or serving the district, including projects whose purpose is to:

(A) display art;

(B) present performances of the cultural and performing arts;

(C) facilitate the development and training of persons engaged in the cultural and performing arts;

(D) provide for below market rent living space for persons engaged in the cultural and performing arts; or

(E) provide for free public interaction with the cultural and performing arts.

(2) Payment of the principal of and interest on any obligations that are payable solely or in part from money deposited in the fund and that are incurred by the redevelopment commission for the purpose of financing or refinancing the development of public facilities in or serving the district.

(3) Establishment, augmentation, or restoration of the debt service reserve for obligations described in subdivision (2).

(4) Payment of the principal of and interest on bonds issued

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by the unit to pay for public facilities in or serving the district.

(5) Payment of premiums on the redemption before maturity of obligations described in subdivision (2).

(6) Payment of amounts due under leases payable from money deposited in the fund.

(7) Reimbursement to the unit for expenditures made by it for public facilities in or serving the district.

(8) Payment of expenses incurred by the redevelopment commission for public facilities in or serving the district.

(c) The cultural and performing arts development fund may not be used for operating expenses of the redevelopment commission.

Sec. 23. (a) A redevelopment commission may issue bonds to provide public facilities under this chapter.

(b) The bonds are payable solely from:

(1) property tax proceeds allocated to the cultural and performing arts development fund under section 16 of this chapter;

(2) money distributed to the redevelopment commission under section 21 of this chapter;

(3) other funds available to the redevelopment commission; or

(4) a combination of the methods in subdivisions (1) through (3).

(c) The bonds must be authorized by a resolution of the redevelopment commission.

(d) The terms and form of the bonds must be set out either in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within fifty (50) years.

(f) The redevelopment commission shall sell the bonds at public or private sale upon terms determined by the redevelopment commission.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of providing public facilities within a district, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the public facilities and all related buildings, facilities, structures, and improvements;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the public facilities

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1 suitable for use and operation;
 2 (4) architectural, engineering, consultant, and attorney's fees;
 3 (5) incidental expenses in connection with the issuance and
 4 sale of bonds;
 5 (6) reserves for principal and interest;
 6 (7) interest during construction and for a period thereafter
 7 determined by the redevelopment commission, but not to
 8 exceed five (5) years;
 9 (8) financial advisory fees;
 10 (9) insurance during construction;
 11 (10) municipal bond insurance, debt service reserve
 12 insurance, letters of credit, or other credit enhancement; and
 13 (11) in the case of refunding or refinancing, payment of the
 14 principal of, redemption premiums, if any, for, and interest
 15 on, the bonds being refunded or refinanced.

16 Sec. 24. The establishment of cultural and performing arts
 17 activities and public facilities within a district serves a public
 18 purpose and is of benefit to the general welfare of a unit by
 19 encouraging investment, job creation and retention, and economic
 20 growth and diversity.

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